

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michel H. Malek
Title: SPINE STABILIZATION
SYSTEMS
Appl. No.: 10/722,119
Filing Date: 11/25/2003
Examiner: David C. Comstock
Art Unit: 3733
Confirmation 4839
Number:

RESPONSE TO SPECIES ELECTION REQUIREMENT AND AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner Comstock:

This communication is responsive to the Office Action, dated May 4, 2007, concerning the above-referenced patent application. The one month period for responding to the election requirement is set to expire on June 4, 2007, thus Applicant believes this response to be timely filed.

Applicant first thanks the Examiner for withdrawing the previous election requirements.

In response to the instant Office Action, imposing a species election requirement on the claims of the above-referenced patent application, Applicant hereby provisionally elects as a stabilizing element species I, a rod, reading on claims 1, 2, 4-25, and 43, without traverse.

However, as pointed out by the Examiner, Claims 1 and 23 are generic claims encompassing

both of the purported species: I, a rod; and II, a plate. Therefore, upon allowance of a generic claim, Applicant is entitled to consideration of claims to the unelected species that depends therefrom, as provided in 37 C.F.R. § 1.141.

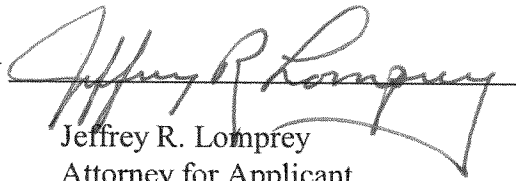
Applicant does not believe any fees are due with this response, however the Commissioner is hereby authorized to charge any fees which may be required regarding this application under 37 C.F.R. §§ 1.16 1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2350.

Respectfully submitted,

Date May 16, 2007

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By

A handwritten signature in black ink, appearing to read "Jeffrey R. Lompfrey", written over a horizontal line.

Jeffrey R. Lompfrey
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